

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Keith FitzPatrick
Serial No. : 10/612,196
For : SUBSTRATE FOR ENDLESS BELT FOR USE IN
PAPERMAKING APPLICATIONS
Filed : July 2, 2003
Examiner : Andrew T. Piziali
Art Unit : 1794
Confirmation No. : 4118

745 Fifth Avenue
New York, NY 10151

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Claims 1-40 are pending in this application. Claims 1 and 32 are the sole independent claims. Claims 1-11, 13 and 32-40 are rejected under 35 U.S.C. §102(b) or, in the alternative, under 35 U.S.C. §103(a) over U.S. Patent No. 5,753,485 to FitzPatrick ("FitzPatrick").

Appellants respectfully request that the Panel consider the following arguments. On November 4, 2008 the Examiner and Applicant's representative had a telephonic interview on the Non-Final Office Action dated August 4, 2008. While agreement was not reached, the Examiner favorably indicated that the arguments below would overcome the cited art of record, unless the Examiner found additional grounds for asserting the cited art upon further review. The next Final Office Action, however, had no new grounds in the cited art at all, but relegated the discussion to "unsupported" attorney argument.

Claim 1 recites, inter alia,

A substrate...comprising: a plurality of individual preformed layers and a polymeric coating or impregnating material or rubber material that is part of each of said individual preformed layers,

wherein each individual preformed layer is a textile layer coated or impregnated coated with resin or the rubber material....

Independent claim 32 recites “a plurality of individual layers of preformed material that are first coated with a polymer resin or rubber material individually and then combined to form a substrate of the belt.” As explained in the prior responses and the interview, FitzPatrick fails to teach the above-recited limitations, and instead shows a single textile layer formed as a multilayer weave, and that structure is then coated.

Paragraphs 0036 and 0042 of the instant application clearly evidence that **each layer that makes up the belt is laminated to an adjacent layer**. Each preformed layer is a "textile layer" or a textile layer coated/impregnated with resin. The individual layers are first coated or impregnated with a polymer resin and then combined to form the substrate of the belt for papermaking machine applications. Each layer has either a coating already, or has a layer of fusible material inserted between layers to allow lamination to take place (paragraphs 0038, 0042). This technique causes complete lamination between adjacent layers (100% coverage).

At page 4 the Office Action alleges Applicants assert “FitzPatrick does not teach or suggest a multilayer structure” and that “the Applicant asserts that the layers of Figure 6 [of FitzPatrick] are individual preformed layers prior to being impregnated, but that once the layers are impregnated with one polymeric resin material, the layers are no longer “individual preformed layers.” With all due respect, **Applicant did not so argue**. Rather, Applicant unambiguously argued, with emphasis, that FitzPatrick fails to teach “a plurality of individual preformed layers and a polymeric coating or impregnating material or rubber material that is part

of each of said individual preformed layers.” See Submission dated July 11, 2008 at page 9
emphasis in original.

FitzPatrick, and Figure 6 specifically, shows three layers of material (e.g. yarns) not woven together. **After** those layers are brought into contact with each other, a **single** coating layer 50 is applied to this entire substrate of layers (See col. 5, lines 38-49 of FitzPatrick). FitzPatrick specifically discloses that the transverse continuous fine filaments 46 and longitudinal continuous fine filaments 48 are **not interwoven** with one another, but form a non-woven matrix. Then a polymeric resin coating 50 is provided on both sides of long nip press belt 44. The single polymeric resin coating 50 in FitzPatrick is structurally different from the **distinct** resin layers of the instant invention i.e. a polymeric coating or impregnating material or rubber material that is part of **each** of the individual preformed layers.

At page 5, the Office Action responds saying that “Applicant’s argument is not persuasive because the Applicant has failed to show, or attempt to show that this process disclosed by FitzPatrick results in a patentably distinct structure.” Applicant disagrees, and **as discussed in the telephonic interview and throughout prosecution**, Applicant respectfully refers the following exemplary arguments. The claim recites that “each individual preformed layer” is “coated or impregnated with resin or the rubber material.” As discussed above and evidenced in paragraphs 0036 and 0042 of the application, because each layer is accordingly coated or impregnated, the layers have fusible material which allows **lamination between the layers to take place**. Such a technique causes **a fairly complete lamination between adjacent layers, at nearly 100 percent coverage**, and this is something that Fitzpatrick’s structure does not achieve. Indeed, the Examiner assented to this during the interview, tentatively agreeing that the claimed invention is, to use a crude analogy, like a 3-plus layered peanut-butter and jelly

sandwich, where the “coating,” due to being between each layer, results in more substantial coverage, than say, a cake with frosting only on the outside.

Thus, as explained above and in paragraphs 36 and 42 of the present application, the claimed structure results in a structure where each layer that makes up the belt is laminated to an adjacent layer. Structurally, FitzPatrick’s multilayer substrate does not have the distinct resin layers as claimed: “a polymeric coating or impregnating material or rubber material that is **a part of each said individual preformed layer**, wherein **each individual preformed layer** is a textile layer coated or impregnated with resin or the rubber material.”

For at least the foregoing reasons, Applicant submits that claim 1 is patentably distinguished over FitzPatrick, and is therefore allowable. As independent claim 32 is somewhat similar to scope in claim 1, it is allowable for the same reasons. Accordingly, for the reasons given above and during the telephonic interview. Applicant respectfully requests reconsideration and withdrawal of the rejections thereto.

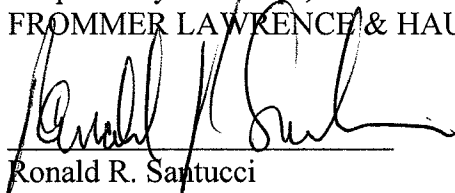
CONCLUSION

In view of the foregoing remarks, all of the claims in this application are patentable over the prior art, and an early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to
Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:



Ronald R. Santucci
Reg. No. 28,988
Brian M. McGuire
Reg. No. 55,445
Ph: (212) 588-0800
Fax: (212) 588-0500